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8 UNITED STATES BANKRUPTCY COURT
9 NORTHERN DISTRICT OF CALIFORNIA
10

11 In re)
12 KAREN V. KAYNE, aka)
KAREN K. MITCHELL)
13)
14 Debtor.)
15 _____)
16

Case No. 09-12470
(Chapter 7)

**DECLARATION OF TIMOTHY W.
HOFFMAN IN SUPPORT OF
MOTION FOR SANCTIONS AGAINST
DEBTOR'S COUNSEL
PER 11 U.S.C. § 707(b)(4)(C) and (D),
BANKRUPTCY RULE 9011, AND
N.D. CAL. CIV. R. 11-6**

17 I, Timothy W. Hoffman, state:

18 1. I am the duly appointed bankruptcy trustee in this matter.

19 2. On September 9, 2009, I declared this case as a no-asset case based on the
20 representations made to me by the debtor and her counsel, Gregory Orton, Esq. at the First
21 Meeting of Creditors on September 3, 2009.

22 3. In mid-December of 2009, I was contacted by Steven Beckwith, an attorney who
23 was representing a defendant in *Kayne v. Haury* SCV 241886. Beckwith asked why the
24 bankruptcy estate of Karen V. Kayne had not administered a promissory note worth
25 approximately \$62,000.

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4. That was the first time I learned the true value of the promissory note. Neither the Schedules nor the Statement of Affairs listed a promissory note. I only learned about the note when I questioned the debtor about a lawsuit she had listed on her Statement of Affairs. The debtor and Orton informed me that the promissory note had a remaining balance due of \$7,000 and was uncollectible, according to statements they made at the debtor's First Meeting of Creditors. The debtor had a remaining \$7,000 worth of exemptions available to her under CCP 703 *et seq.*

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct, that I have personal first-hand knowledge thereto, that if called as a witness, I could and would testify competently thereto, and that this declaration was executed on April 5, 2010 at Sebastopol, California.

/s/ Timothy W. Hoffman
Timothy W. Hoffman
Trustee in Bankruptcy